

48A C.J.S. Judges § 88

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IV. Standards of Conduct; Restrictions and Prohibitions

A. In General

§ 88. Binding effects of judicial canons or codes

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(2), 21, 24

Although judicial canons are binding on judges, establish mandatory standards of conduct for them, and may have the force of law where promulgated by the courts, except as legislatively enacted or judicially adopted, they do not, of themselves, have the force and effect of law.

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The Code of Judicial Ethics does not apply unless one is an officer of the judicial system.⁵ A code of judicial conduct does not apply to the staff of a judge, but the judge does have managerial duties and must require the staff to comply with certain ethical standards.⁶ However, actions of a member

of a judge's staff which contravene the code of judicial conduct will not necessarily be imputed to the judge.⁷

CUMULATIVE SUPPLEMENT

Cases:

Arbitration, if that is the agreed-upon alternative dispute resolution, falls within the scope of a Business Division judge's official duties, and therefore does not run afoul of the provision of the Code of Judicial Conduct stating that a judge shall not act as an arbitrator or mediator or perform other judicial functions apart from the judge's official duties. [W. Va. Trial Ct. R. 29.04\(e\), 29.09\(h\)](#); W.Va. Code of Jud. Conduct, Canon 3.9. [West Virginia Investment Management Board v. Variable Annuity Life Insurance Company](#), 820 S.E.2d 416 (W. Va. 2018).

[END OF SUPPLEMENT]

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Footnotes

- 1 La.—[In re Williams](#), 85 So. 3d 5 (La. 2012).
- 2 N.J.—[In re Advisory Letter No. 7-11 of Supreme Court Advisory Committee on Extrajudicial Activities](#), 213 N.J. 63, 61 A.3d 136 (2013).
- 3 Ark.—[Horton v. Ferrell](#), 335 Ark. 366, 981 S.W.2d 88 (1998).
- 4 Ohio—[In re Complaint Against Harper](#), 77 Ohio St. 3d 211, 673 N.E.2d 1253 (1996).
- 5 Ala.—[Wallace v. Wallace](#), 352 So. 2d 1376 (Ala. Civ. App. 1977).
- 6 La.—[In re Haggerty](#), 257 La. 1, 241 So. 2d 469 (1970).
- 7 **Subordinate judicial officer**
Cal.—[Rand v. Board of Psychology](#), 206 Cal. App. 4th 565, 142 Cal. Rptr. 3d 288 (3d Dist. 2012), as modified on denial of reh'g, (June 11, 2012) and review denied, (Aug. 15, 2012).
- 8 Ind.—[In re Hawkins](#), 902 N.E.2d 231 (Ind. 2009).
- 9 Okla.—[Judicial Ethics Opinion 2001-4](#), 2001 OK JUD ETH 4, 73 P.3d 269 (Okla. Jud. Eth. 2001).
- 10 Idaho—[Athay v. Rich County](#), 153 Idaho 815, 291 P.3d 1014 (2012).